



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2011-20

Legistar #: 20110555

Board of Zoning Appeals Hearing: Monday, June 27, 2011 – 6:00 p.m.

Applicant: Scarlett Malpass Tassone
145 Charles Avenue
Marietta, GA 30067

Property Owner: Same as above

Address: 145 Charles Avenue

Land Lot: 12400 **District:** 16 **Parcel:** 0580

Council Ward: 7 **Existing Zoning:** R-4 (Single Family Residential 4 units/acre)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to allow the finished side of a fence face the interior. [Section 710.04]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



145 Charles Avenue



Fence facing Charles Avenue



Recommended Action:

Approval. Scarlett Malpass Talssone is requesting a variance for a fence in the rear yard of 145 Charles Avenue. The property is zoned R-4 (Single Family Residential – 4 units/acre) and is surrounded by other single family homes also zoned R-4. The fence is located in the side and rear yard of the subject property and was installed with the finished side facing inward, which is prohibited by Section 714.04 of the Zoning Ordinance.

The subject property is triangular-shaped, resulting in two property owners on the north side (131 Charles Avenue and 1434 James Street) of the property and one property owner to the south side (155 Charles Avenue). The sides of the fence facing the road are correctly installed with the finished side facing outward. However, the sides of the fence facing the neighbors were not correctly installed. The properties at 1434 James Street and 155 Charles Avenue both have a thick hedges and chain link fence that obscure a large portion of the applicant's fence. The property owner to the north (131 Charles Avenue) has a privacy fence that was also installed incorrectly, resulting in two fences with the unfinished sides facing each other. In addition, the applicant has provided letters of support from both the property owners to the north.

The construction of the fence does not appear to be detrimental or injurious to nearby property owners and should not be negatively impact the public health, safety, or general welfare. **As a result, staff recommends approval of this variance request.**